

## REMARKS

In view of the foregoing amendments and the following remarks, Applicant respectfully requests reexamination of the present invention. Claims 1-3 and 5-8 are currently pending in this application.

Applicant appreciates the Examiner's participation in the telephonic interview on September 10, 2008. In addition to the below discussed issues under 35 U.S.C. 112 – second paragraph raised in the office action mailed on May 13, 2008, during the interview the Examiner suggested additional amendments to the claims to present the claims in a more clear format. In response, Applicant has amended the claims to address all above issues. It is noted however, that such claim amendments have not been made to overcome prior art.

### **Rejection under 35 U.S.C. §112**

Claims 1-9 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Initially, it is noted that while the Examiner has rejected claims 1-9 under 35 U.S.C. 112, second paragraph, claims 4 and 9 were cancelled in a previous response by Applicant. Therefore, Applicant will assume only claims 1-3 and 5-8 have been rejected under 35 U.S.C. 112, second paragraph by the Examiner.

Further, the Examiner noted in the office action that it was unclear "whether one or more transit nodes supplement the protocol element with their associated partial cost for transmission through the one or more transit nodes, or service provider supplements the protocol element with the partial cost for one or more transit nodes through which pending will transit."

In response, Applicant has amended Independent Claim 1 to recite that the supplementing step is performed by the one or more transit nodes, so as to resolve the Examiner's uncertainty. Support for this limitation can be found in lines 23-25 of page 6 and line 31 of page 3 of the specification. Accordingly, Applicant respectfully requests

that the rejection of Claims 1-3 and 5-8 under 35 U.S.C. 112, second paragraph be withdrawn.

### **CONCLUSION**

Based upon the foregoing, and because there are no other outstanding rejections or objections, Applicant believes that all pending claims are in condition for allowance and such disposition is respectfully requested. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted,

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